

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**



**ELECTRONIC CASE FILING
ADMINISTRATIVE PROCEDURES**

October 24, 2003

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ELECTRONIC FILING and PDF

Electronic Filing is the process of uploading a document from the registered user's computer, using the court's Internet-based Electronic Case Files (ECF) system, to file the document in the court's case file. The ECF system only accepts documents in a portable document format (PDF). There are two types of PDF documents – electronically converted PDF's and scanned PDF's. Although either type is acceptable, PDF documents converted electronically are preferred over scanned PDF files due to the size differences and ability to search text.

Electronically converted PDF's are created from word processing documents (MS Word, WordPerfect, etc) using Adobe Acrobat or similar software. They are text searchable and their file size is small.

Scanned PDF's are created from paper documents run through an optical scanner. Scanned PDF's are not searchable and have a large file size.

ADMINISTRATIVE PROCEDURES

A. General Information

1. Effective **October 1, 2003**, documents submitted for filing in all pending civil and criminal cases, except those documents specifically exempted in subsection (H) of these procedures, may be filed either electronically using the Electronic Case Filing System (ECF) or on a properly labeled 3.5" floppy or compact disk in portable document format (PDF) so that the document can be added to the electronic case file. **Attorneys should be guided by the standing orders of each judge to determine when it is appropriate to begin electronically filing documents in their cases and whether courtesy copies of documents need to be provided.** Magistrate Judges may issue standing orders for electronic filing in their consent cases on a case by case basis.
2. The Clerk's Office will not maintain a paper court file in any civil or criminal case commenced after October 1, 2003, except as otherwise provided herein or as ordered by the Judge in a particular session. (The case files in actions commenced prior to October 1, 2003 may contain paper versions of those documents filed prior to October 1, 2003 and electronic files of the documents filed on or after October 1, 2003). The official court record in ECF cases shall be the electronic file maintained on the court's servers together with any paper documents, attachments and exhibits filed in accordance with these procedures.

3. The Clerk's Office may discard the PDF disk after it has been uploaded to ECF or the original document after it has been scanned and uploaded to ECF.
4. All documents filed by electronic means must comply with technical standards, if any, established by the Judicial Conference of the United States or by this Court.

B. Registration

1. Attorneys admitted to the bar of this court, including attorneys admitted pro hac vice, must register as filing users of the court's ECF system prior to filing any pleadings electronically. Registration can be accomplished by filling in the on-line ECF registration or by completing an ECF Registration Form, a copy of which is on the Court's web page (www.mad.uscourts.gov). If not submitted on-line, completed ECF Registration Forms should be mailed or hand delivered to:

Clerk, United States District Court
Attn: CM/ECF Registration
John Joseph Moakley United States Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210

2. Any one who is a party to a civil action, and not a prisoner, and who is not represented by an attorney may register as a filing user in the ECF system. If during the course of the action the person retains an attorney who appears on the person's behalf, the Clerk shall terminate the person's registration upon the attorney's appearance.
3. A registered user shall not allow another person to file a document using the user's log-in and password, except for an authorized agent of the filing user. Use of a user's log-in and password by a staff member shall be deemed to be the act of the registered user.
4. Registration constitutes consent to service of all documents by electronic means as provided in these procedures and Federal Rule of Civil Procedure (Fed.R.Civ.P) 5(b) and 77(d), and Federal Rule of Criminal Procedure (Fed.R.Crim.P.) 49(b).
5. Once an account has been established by the court, your login and password will be sent to you by the Office of the Clerk via e-mail.

C. Filing and Service of Civil Case Opening Documents

1. Civil case opening documents, such as a complaint, petition, or notice of removal, together with a summons and civil cover sheet and category sheet, shall be filed in the traditional manner by United States mail or delivered in person to the Clerk's Office accompanied by the required filing fee. Case opening documents may also be provided in PDF format on a properly labeled 3.5" floppy or compact disk, so that the documents can be added to ECF. Otherwise, the Clerk's Office will scan the complaint and cover sheets and upload them to the System.
2. New cases are deemed filed the day the Clerk's Office receives the complaint and any required filing fee.
3. Via mail, the Clerk's Office will return a signed and sealed summons for service of process to plaintiff's counsel. A party may not electronically serve a civil complaint but shall effect service in the manner required by Fed.R.Civ.P.4.

D. Electronic Filing

1. Electronic transmission of a document to the ECF system, together with the transmission of a Notice of Electronic Filing (NEF) from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and constitutes entry of the document on the docket maintained by the Clerk pursuant to Fed.R.Civ.P.58, Fed.R.Civ.P.79 and Fed.R.Crim.P.55.
2. A document filed electronically shall be deemed filed at the time and date stated on the Notice of Electronic Filing received from the court.
3. All pleadings filed electronically shall be titled in accordance with the approved dictionary of civil or criminal events of the ECF system of this court.
4. E-mailing or faxing a document to the Clerk's Office or to the assigned judge does not constitute "filing" of the document. A document shall not be considered filed until the System generates a notice of electronic filing.

E. Service of Electronically Filed Documents

1. Whenever a pleading or other document is filed electronically, the ECF system will automatically generate and send a Notice of Electronic Filing (NEF) to the filing user and registered users of record in the case. The user filing the

document shall retain a paper or digital copy of the NEF, which shall serve as the court's date-stamp and proof of filing.

2. Transmission of the NEF shall constitute service of the filed document and shall be deemed to satisfy the requirements of Fed.R.Civ.P.5(b)(2)(D), Fed.R.Civ.P.77(d) and Fed.R.Crim.P.49(b). A certificate of service is not necessary on electronically filed documents. The attorney filing the document electronically is responsible for serving a paper copy of the document by mail in accordance with Fed.R.Civ.P.5(b) to those attorneys or pro se litigants who have not been identified on the NEF as electronic recipients.
3. Service by electronic means shall be treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond. In accordance with Local Rule 7.1, a party opposing a motion, shall file an opposition to the motion within fourteen (14) days after service of the motion, unless another period is fixed by rule or statute, or by order of the court. The fourteen day period is intended to include the period specified by the civil rules for mailing time and provide for a uniform period regardless of the use of the mails.

F. Subsequent Documents with Fee Requirement

Subsequent documents filed in a case which require a fee, such as notice of appeal, motion for leave to appear pro hac vice, etc. may be electronically filed. However, the required fee must be paid within 24 hours after the document is submitted electronically. A copy of the Notice of Electronic Filing should be submitted with the fee to the Clerk's Office.

G. Deadlines

Filing documents electronically does not in any way alter any filing deadlines. All electronic transmissions of documents must be completed **prior to 6:00 p.m., Eastern Standard Time, in order to be considered timely filed that day.** Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

H. Special Filing Requirements and Exceptions

1. The following documents **shall be filed only on paper and will not be scanned into ECF by the Clerk's Office:**
 - a. Documents filed under seal;

- b. Administrative records in social security cases and in other administrative review proceedings;
 - c. The state court record and other Rule 5 materials in habeas corpus cases filed in 28 U.S.C. §2254 proceedings;
 - d. Ex parte motions and applications;
 - e. Pretrial hearing and trial exhibits; and
 - f. Medical Records
2. The following documents **shall be filed on paper**, which **may also be scanned** into ECF by the Clerk's Office:
- a. The state court record filed in 28 U.S.C. §1446 removal proceedings;
 - b. All handwritten pleadings;
 - c. All pleadings and documents filed by pro se litigants who are incarcerated or who are not registered filing users in ECF;
 - d. The charging document in a criminal case, such as the complaint, indictment, and information, as well as the criminal JS45 form for the District of Massachusetts;
 - e. Affidavits for search and arrest warrants and related papers;
 - f. Fed.R.Crim.P.20 and Fed.R.Crim.P.40 papers received from another court;
 - g. Appearance bonds;
 - h. Any pleading or document in a criminal case containing the signature of a defendant, such as a waiver of indictment or plea agreement; and
 - i. Petitions for violations of supervised release.
3. The following documents **may be scanned by counsel** and filed using ECF, **or filed** on paper:
- a. Rule 4 executed service of process documents, and
 - b. Attachments to filings (See subsections L and M).
4. The following documents may be received by the Clerk's Office in criminal cases, but are not filed, electronically or otherwise, unless ordered by the Court:
- a. Pretrial service reports;
 - b. Psychiatric and psychological reports;
 - c. Pre-sentencing reports and other papers submitted prior to sentencing; and
 - d. Letters from defendants

I. Documents Not Filed Electronically

1. Sealed Documents/Cases: At this time, the Court will not permit the electronic filing of sealed documents. These documents should be filed as always, clearly labeled as a sealed document, with the appropriate accompanying motion to seal pursuant to Local Rule 7.2.
 - a. A party may electronically file a motion to file a document under seal. If the motion is granted, the assigned judge will electronically file an order authorizing the filing of the document under seal. The filing party shall then deliver the document to the Clerk's Office for conventional filing under seal. A paper copy of the order must be attached to the documents filed under seal and delivered to the clerk.
2. Ex Parte Motions, Motions by CJA Attorneys for Funds, etc.: These motions should be filed as hard copies. These will be handled in the same fashion as sealed documents (except for the requirement to file a separate motion to seal for each document).
3. Alternative Dispute Resolution (ADR) Documents: Other than the Order of Reference to ADR and subsequent reports from the ADR Provider, all documents generated by the parties in the ADR process should be sent or delivered to the ADR Provider directly as a hard copy, clearly identified as a document for the ADR Provider. ADR documents are not part of the public case file.

J. Signature

1. Attorneys. The user log-in and password required to submit documents to the ECF system shall serve as that user's signature for purposes of Fed.R.Civ.P.11 and for all other purposes under the Federal Rules of Civil Procedure and the Local Rules of this Court. All electronically filed documents must include a signature block and must set forth the attorney's name, Bar number, address, telephone number and e-mail address. The name of the ECF user under whose log-in and password the document is submitted must be preceded by a "/s/" and typed in the space where the signature would otherwise appear.
2. Multiple Signatures. The filer of any document requiring more than one signature (e.g, stipulations, joint motions, joint status reports, Magistrate Judge consent forms, etc.) must list thereon all the names of other signatories by means of a "/s/_____" block for each. By submitting such a document, the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to

submit the document electronically. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, until two (2) years after the expiration of the time for filing a timely appeal. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within fourteen (14) days of the date on the Notice of Electronic Filing.

3. Affidavits. Except as provided in subsection H(2)(e), affidavits shall be filed electronically; however, the electronically filed version must contain a "/s/ _____" block indicating that the paper document bears an original signature. The filing attorney shall retain the original for future production, if necessary, for two (2) years after the expiration of the time for filing a timely appeal.

K. Privacy

To address the privacy concerns created by Internet access to court documents, unless otherwise ordered by the Court, the filing attorney shall modify certain personal data identifiers in pleadings and other papers as follows:

1. Minors' names: Use of the minors' initials only;
2. Social security numbers: Use of the last four numbers only;
3. Dates of birth: Use of the year of birth only;
4. Financial account numbers: Identify the type of account and the financial institution, but use only the last four numbers of the account number.

It is not the responsibility of the Clerk's Office to review each document to determine if pleadings have been modified and are in the proper form.

SPECIAL NOTICE TO ATTORNEYS INVOLVED IN SOCIAL SECURITY CASES - It is your responsibility to provide the U.S. Attorneys' Office with the social security number of the plaintiff upon the filing of a new social security case.

L. Attachments to Filings and Exhibits (other than hearing and trial exhibits)

1. Attachments to filings and exhibits must be filed in accordance with the Court's ECF User Manual, unless otherwise ordered by the court.
2. A filing user must submit as attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document, as may be allowed by

the Court. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.

3. Filers shall not attach as an exhibit any pleading or other paper already on file with the Court in that case, but shall merely refer to that document.

M. File Size Limitations and Conventional Filing of Documents

1. Whether documents are submitted electronically or on paper, they are still subject to page limitations set by LR 7.1(B)(4) or by order of the court.
2. A filing party must limit the size of the PDF file to no more than 2 megabytes which may be approximately equivalent to a 30 page scanned document. Filing parties should take into consideration that scanned images take up considerably more space on the system than PDF files containing electronically generated documents converted to PDF. However, larger documents or exhibits may be submitted electronically if they are broken up into separate two megabyte segments and attached to the main document.
3. Because documents scanned in color or containing a graphic take much longer to upload, filing parties must configure their scanners to scan documents at 200 dpi and in black and white rather than in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the System.
4. The filing party is required to verify the readability of scanned documents before filing them electronically with the court.
5. Documents or exhibits submitted conventionally shall be served on other parties as if not subject to these procedures.
6. When documents or exhibits are submitted conventionally, a Notice of Filing with Clerk's Office shall be filed electronically or shall be attached to the main document. The Notice of Filing with Clerk's Office (see Appendix A) shall describe each of the documents that will be retained as paper copies in the Clerk's Office files, or include an index of the documents if they are voluminous.

N. Orders and Judgments

1. The assigned judge, chambers staff or deputy clerk shall electronically file all signed orders. Any order signed electronically has the same force and effect as if

the judge had affixed his/her signature to a paper copy of the order and it had been entered on the docket conventionally.

2. When mailing paper copies of an electronically filed order to a party who is not a registered participant in ECF, the Clerk's Office will include the Notice of Electronic Filing to provide the non-participant with proof of the filing.
3. A judge, or deputy clerk, if appropriate, may grant routine orders by a text-only entry upon the docket entitled "Electronic Order". In such cases, no PDF document will issue; the text-only entry shall constitute the court's only order on the matter and counsel will receive a system generated NEF.

O. Motions for Leave to File

In any case of an electronic filing in which a party seeks leave of court to file a document or to amend a document previously filed, the party must attach electronically to the motion seeking leave a copy of the document which the party proposes to file. That document must be marked "Proposed [document designation]." If leave to file the document is granted, the party proposing the document must then file the original of that document (which may be done electronically), indicating in the caption of the document that leave has been granted.

P. Submitting Redacted Documents

The parties may request or the Court may require the submission of redacted documents which have sensitive or confidential information removed from them. When filing the original document electronically, the actual document should not be attached to the entry. In its place attach a PDF file which includes the caption of the document and the notation "Document Sealed". If the Court requires the filing of a redacted version of the document, under the Other Filings/Other Documents menu option select Redacted Document and link it back to the original entry but attach the redacted version to this entry.

Q. Submitting Proposed Order

Proposed orders may be submitted electronically in PDF. All proposed orders, other than those filed by the Government pursuant to 18 U.S.C. § 3161(h)(8)(A), must be either attached as an exhibit to a motion or stipulation or contained within the body of a stipulation. The court may request proposed orders in word processing format by submission to the court on a disk or by e-mail.

R. Transcripts

Proceedings of this Court. A transcript of a proceeding of this court shall be filed in the traditional manner by the court reporter. The transcript will be maintained in the case file in the Clerk's Office.

1. Transcripts from other Courts. A transcript of a proceeding of another court shall be filed electronically in PDF, if so available, otherwise on paper.
2. Depositions. Transcripts of depositions, when required to be filed, shall be filed electronically using ECF or on either a 3.5" floppy disk or compact disk in PDF, if so available, otherwise on paper.

S. Correcting Docket Entries

1. Once a document is submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk's Office. The System will not permit the filing party to make changes to the document(s) or docket entry filed in error once the transaction has been accepted.
2. A document incorrectly filed in a case may be the result of posting the wrong PDF file to a docket entry, or selecting the wrong document type from the menu, or entering the wrong case number and not catching the error before the transaction is completed. **The filing party should not attempt to refile the document.**
3. As soon as possible after an error is discovered, the filing party should contact the Clerk's Office with the case number and document number for which the correction is being requested. If appropriate, the court will make an entry indicating that the document was filed in error. The filing party will be advised *if* the document needs to be refiled.

T. Technical Failures

1. Known systems outages will be posted on the web site, if possible. A filing user whose filing is made untimely as the result of a technical failure of the Court's ECF system may seek appropriate relief from the Court.
2. Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under these procedures nor excuse an untimely

filing. A filer who cannot file a document electronically because of a problem on the filer's end must file the document conventionally with the document in PDF format on a 3.5" floppy or compact disk or contact the Clerk's Office for permission to file the PDF document via e-mail. Since help desk support will only be available during normal business hours, filers are strongly urged to electronically file any documents due on a given day during normal business hours.

U. Pro Se Litigation

Non-prisoner pro se litigants in civil actions may register with ECF or may file (and serve) all pleadings and other documents on paper. The Clerk's Office will scan into ECF any pleadings and documents filed on paper in accordance with section H of these procedures.

V. Access to Electronically Stored Documents

The public may review at the Clerk's Office all filings that have not been sealed. The public may access civil and criminal files in ECF through the court's Internet site (www.mad.uscourts.gov) by obtaining a PACER log-in and password. Documents in criminal cases are available through remote public access as, the District of Massachusetts is part of a pilot program adopted by the Judicial Conference of the United States in March 2002 to provide public access to electronic files in criminal cases in a selected number of courts.

W. Retention

Unless otherwise ordered by the Court, documents that are filed on paper and subsequently uploaded to the ECF system may be destroyed and need not be maintained in its paper form by the Clerk's Office. Any document requiring an original signature shall be maintained by the attorney until two (2) years after the expiration of the time for filing a timely appeal. (See subsection J(2) and (3))

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

APPENDIX A

V.

CASE NO. _____

NOTICE OF FILING WITH CLERK'S OFFICE

Notice is hereby given that the documents, exhibits or attachments listed below have been manually filed with the Court and are available in paper form only:

The original documents are maintained in the case file in the Clerk's Office.

Date

Attorney for
